

In the Matter of Merchant Mariner's Document No. Z-630511-D1 and all other seaman Documents

Issued to: JOHN R. MOBLEY

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1255

JOHN R. MOBLEY

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.11-1.

By order dated 21 November 1960, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleges that, on or about 7 May 1959, Appellant was convicted by the Court of Special Sessions of the City of New York, County of New York, a court of record, for a violation of the narcotic drug laws of the State of New York (unlawful possession and control of a narcotic drug).

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification.

The Investigating Officer introduced documentary evidence proving the conviction alleged. Appellant stated that two marijuana cigarettes had been given to him and he unconsciously put them in his pocket; the cigarettes were found the next day when he was arrested for drinking in the street.

The Examiner concluded that the charge and specification had been proved. He then entered an order revoking all documents issued to Appellant.

On appeal, it is contended that the order is unjust because Appellant has an unblemished shipboard record and also for the reason stated at the hearing that Appellant was innocently involved concerning the marijuana. Appellant claims that revocation is not mandatory since 18 U. S. Code 1407 requires that narcotic convictions be reported on leaving the United States.

OPINION

In a proceeding under 46 U. S. Code 239b, revocation is the only permissible order after the specification and charge have been found proved. See 46 Code of Federal Regulations 137.04-10. A prior clear record and claim of innocence cannot alter this in the face of the conviction by a court of record because the order of

revocation is based solely on the fact of conviction.

The requirement to register narcotic convictions (18 U.S.C. 1407) is not limited to seamen and this law is not directly related to the authority to take action under 46 U.S.C. 239b against the documents of merchant seamen. Therefore, 18 U.S.C. 1407 has no bearing on this matter.

ORDER

The order of the Examiner dated at New York, New York, on 21 November 1960, is AFFIRMED.

A. C. Richmond
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 21st day of July 1961.